IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 451 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PARLE BISLERI PVT LTD THRO ITS AUTHRORISED REPRESEN

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Revision Application No. 451 of 2002

MR HRIDAY BUCH for Petitioner No. 1

Mr.P.R.Abichandani, A.P.P for Respondent-State.

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 30/10/2002

ORAL JUDGEMENT

Rule. Mr. Abichandani waives service of notice of rule.

In the facts and circumstances of the case, the matter is taken up for final hearing.

1. This Revision Application arises out of an order passed by the learned Chief Judicial Magistrate, Junagadh, below Exh.1 in Criminal Misc. Application no.491/2002 on August 9,2002 ordering release of Muddammal Matador no.GJ 1 KT 818 and crates of Bisleri Mineral Water pursuant to an offence registered vide CR no.I 147/2002 with Jamnagar "B" Division Police Station for offences punishable under Secs.273, 487, 488, 406, 420 and 114 of the Indian Penal Code on condition that the petitioner should furnish personal bond and surety of Rs.4,00,000/- and to maintain the Muddammal in the same condition and to produce the same as and when called upon by the Court so to do.

2. The accusation against the revisioner-accused was that they are selling sub-standard contaminated water as mineral water. However, it transpires from the order of the learned Chief Judicial Magistrate that the Investigating Agency has no objection if the Muddammal is returned to the revisioner-accused. It also appears that subsequently an objection was raised.

3. Interesting and relevant it is to note that the report of the Additional Assistant Commissioner from the Local Health Authority, Junagadh dated 29th July, 2002 indicates that the Public Analyst, Baroda, had examined the mineral water and had declared it to be conforming to the standard prescribed therefor. There appears no reason, therefore, to consider the Bisleri Mineral Water as contaminated or injurious to health. After considering all these aspects, the learned Chief Judicial Magistrate came to the conclusion that the Muddammal is required to be returned, but on above stated conditions.

4. Learned Advocate Mr. Buch submitted that when the water conforms to the prescribed standards, no offence can be said to have been committed; it would be a clear case for filing of Summary "C", and therefore, police has rightly filed Summary "C". Preservation of Muddammal, therefore, in the same condition and reproduction thereof before the Court is unwarranted. Likewise, the quantum of amount of personal bond and surety is also highly inflated. He, therefore, urged that this Revision may be allowed and the said order may be suitably modified.

5. Learned A.P.P. Mr. Abichandani appears for the

respondent-State.

6. Having regard to the facts of the case, it is apparent that the allegation was that the revisioner sells contaminated and sub-standard water under the brand name of Bisleri. The said water was sent for chemical analysis and it has been reported to be conforming to the standards. Differently put, it is neither contaminated nor sub-standard; nor injurious to health and the police has, therefore, filed Summary "C". Under the circumstances, while returning the Muddamal, in the opinion of the Court, the conditions imposed are harsh and they need to be modified as under:

Revision is partly allowed. The order of the learned Chief Judicial Magistrate below Exh.1 in Criminal Misc.Application no.491/2002 dated August 9,2002 is hereby set aside. The revisioner is ordered to be returned the Muddamal on condition of executing a personal bond of Rs.2,00,000/-.

Rule is made absolute to the aforesaid extent. Direct service is permitted.

(A.L.Dave,J.)

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